

AMENDMENTS TO LB 1008

1                   1. Insert the following new section:  
2                   "Sec. 3. Section 23-168.03, Reissue Revised Statutes of  
3 Nebraska, is amended to read:  
4                   23-168.03. (1) The board of adjustment shall, subject to  
5 such appropriate conditions and safeguards as may be established by  
6 the county board, have only the following powers:  
7                   ~~(1)~~ (a) To hear and decide appeals ~~where~~ when it is  
8 alleged by the appellant that there is an error in any order,  
9 requirement, decision, or refusal made by an administrative  
10 official or agency based on or made in the enforcement of any  
11 zoning regulation or any regulation relating to the location or  
12 soundness of structures, except that the authority to hear and  
13 decide appeals shall not apply to decisions made under section  
14 23-114.01;  
15                   ~~(2)~~ (b) To hear and decide, in accordance with the  
16 provisions of any regulation, requests for interpretation of any  
17 map; and  
18                   ~~(3)~~ ~~Where~~ (c) When by reason of exceptional narrowness,  
19 shallowness, or shape of a specific piece of property at the time  
20 of the adoption of the zoning regulations, or by reason of  
21 exceptional topographic conditions or other extraordinary and  
22 exceptional situation or condition of such piece of property, the  
23 strict application of any enacted regulation under sections 23-114  
24 to 23-114.05, 23-168.01 to 23-168.04, 23-172 to 23-174, 23-174.02,

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1 23-373, and 23-376 would result in peculiar and exceptional  
2 practical difficulties to, or exceptional and undue hardships upon  
3 the owner of such property, to authorize, upon an appeal relating  
4 to the property, a variance from such strict application so as to  
5 relieve such difficulties or hardship, if such relief may be  
6 granted without substantial detriment to the public good and  
7 without substantially impairing the intent and purpose of any  
8 zoning regulations, but no such variance shall be authorized unless  
9 the board of adjustment finds that: ~~(a)~~ (i) The strict application  
10 of the resolution would produce undue hardship; ~~(b)~~ (ii) such  
11 hardship is not shared generally by other properties in the same  
12 zoning district and the same vicinity; ~~(c)~~ (iii) the authorization  
13 of such variance will not be of substantial detriment to adjacent  
14 property and the character of the district will not be changed by  
15 the granting of the variance; and ~~(d)~~ (iv) the granting of such  
16 variance is based upon reasons of demonstrable and exceptional  
17 hardship as distinguished from variations for purposes of  
18 convenience, profit or caprice.

19 (2) No variance shall be authorized unless the board  
20 finds that the condition or situation of the property concerned or  
21 the intended use of the property is not of so general or recurring  
22 a nature as to make reasonably practicable the formulation of a  
23 general regulation to be adopted as an amendment to the zoning  
24 regulations.

25 (3) In exercising the ~~above-mentioned~~ powers granted in  
26 this section, the board may, in conformity with the provisions of  
27 sections 23-114 to 23-114.05, 23-168.01 to 23-168.04, 23-172 to

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1 23-174, 23-174.02, 23-373, and 23-376, reverse or affirm, wholly or  
2 partly, or may modify the order, requirement, decision, or  
3 determination appealed from and may make such order, requirement,  
4 decision, or determination as shall be proper, and to that end  
5 shall have the power of the officer or agency from whom the appeal  
6 is taken. The concurring vote of four members of the board shall  
7 be necessary to reverse any order, requirement, decision, or  
8 determination of any such administrative official, or to decide in  
9 favor of the applicant on any matter upon which it is required to  
10 pass under any such regulation or to effect any variation in such  
11 regulation. An appeal of a decision by the county planning  
12 commission or county board of commissioners or supervisors  
13 regarding a conditional use or special exception shall be made to  
14 the district court.".

15 2. On page 3, line 16, strike "subsection (1) of".

16 3. On page 6, line 14, strike "and 19-929" and insert "  
17 19-929, and 23-168.03".

18 4. Renumber the remaining section accordingly.